

ATTORNEY DOCKET NO. 11051ROUS01U (NORT10-00088)
U.S. SERIAL NO. 09/695,108
PATENT

REMARKS

Claims 1-38 and 44-47 are pending in the application.

Claims 1-38 and 44-47 have been rejected.

Reconsideration of the Claims is respectfully requested.

I. REJECTION UNDER 35 U.S.C. § 102

Claims 1-4, 6-9, 11-15, 17-38, 44 and 45 were rejected under 35 U.S.C. § 102(e) as being anticipated by Carter, et al. (US 6,266,782). The rejection is respectfully traversed.

Initially, the Applicant notes that, although the Applicant traversed the rejection under § 102(e) in the Office Action having a mailing date of June 21, 2004, the present Office Action fails to answer the substance of the Applicant's traversal, as required under MPEP § 707.07(f).

A cited prior art reference anticipates the claimed invention under 35 U.S.C. § 102 only if every element of a claimed invention is identically shown in that single reference, arranged as they are in the claims. MPEP § 2131; *In re Bond*, 910 F.2d 831, 832, 15 U.S.P.Q.2d 1566, 1567 (Fed. Cir. 1990). Anticipation is only shown where each and every limitation of the claimed invention is found in a single cited prior art reference. MPEP § 2131; *In re Donohue*, 766 F.2d 531, 534, 226 U.S.P.Q. 619, 621 (Fed. Cir. 1985).

The Office Action argues that Carter describes logically associating a selection of at least one device component in an aggregate logical device, citing column 7, lines 45-50. The cited passage states:

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The T.120 protocol series provides T.120-based application sharing (i.e., T.128 application-sharing layer 70 in FIG. 3), in which a user on the originating node 90 selects a particular application, from a list of shareable applications, that is intended to be shared in a read-only mode with the user on the called node 92. In this example, specifically, a two-way H.323 audio channel 94 and a T.120 application-sharing channel 96 exist over the network between the originating and the called nodes during the call in progress.

The Applicant respectfully submits that the cited passage describes application sharing between an originating node and a called node. The passage contains no teaching of logical association, or of a logical device of any sort, much less an aggregate logical device.

Indeed, the Applicant is unable to find the word *aggregate* anywhere in the Carter reference. Nor can the Applicant find its synonyms *collective*, *collection*, *assembly*, *cluster*, *cooperative*, *amalgamation*, *array*, *compilation and union*. ACK or NACK response messages are described as *associated* with particular Protocol Correction messages. The methods of Carter purport to correct errors that may occur in *groups* or *sets*. However, the Applicant respectfully submits that Carter in fact contains no teaching of logically associating a selection of at least one device component in an aggregate logical device.

The Office Action further contends that Figure 4 and column 7, lines 39-49, of Carter disclose a method of providing device control to at least one device component, comprising the step of maintaining a logical model of an aggregate logical device. The Applicant respectfully suggests that the Office Action mischaracterizes the teaching of Carter.

Figure 4 of Carter illustrates the context in which its protocol error correction method operates. See column 7, lines 16-18. The figure provides a model that Carter asserts is useful to

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explain some of the problems to be solved by its protocol error correction method. See column 7, lines 18-21. The figure is a logical model of two H.323-capable telephony devices connected via channels over a computer network. See column 7, lines 39-42. The channels are a two-way H.323 audio channel 94, a T.120 application-sharing channel 96, and a protocol error correction channel 98. See column 7, lines 49-57.

The Applicant respectfully submits that Figure 4 and its description are employed by the patent draftsman solely to illustrate an embodiment of the Carter protocol error correction method. They do not illustrate a logical model maintained as a step in that method, or in any other method. Furthermore, the Applicant is able to find no description in Carter of steps taken to maintain the logical model presented in Figure 4.

Finally, the Office Action states that Carter teaches providing access to a data network service by representing a selection of a device component to the service as an aggregate logical device, citing Figure 2, column 4, lines 57-64, and column 5, lines 20-45. The cited passages do not appear to disclose or mention that one or both of the two H.323 client devices engaged in a connection (as shown in Figure 4) are represented to a data network service (or stand-alone service) as an "aggregate logical device."

As such, there appears to be no disclosure or description in the Carter reference that (1) the two H.323 devices/nodes of Figure 4 are logically associated in an aggregate logical device, (2) a logical model is maintained of the aggregate logical device, or (3) the at least one component device is represented to a data network service as the aggregate logical device. See, independent Claims 1,

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37, 38, 44 and 45. For these reasons, Carter does not disclose each and every element/feature of Applicant's claims.

Accordingly, the Applicant respectfully requests the Examiner withdraw the § 102(e) rejection of Claims 1-4, 6-9, 11-15, 17-38, 44 and 45.

II. REJECTION UNDER 35 U.S.C. § 103

Claims 5, 10, 16, 46 and 47 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Carter in view of Marchetti et al. (US 6,618,398). The rejection is respectfully traversed.

As noted with regard to the rejection under § 102(e), the Office Action does not address the Applicant's traversal of the previous rejection under § 103(a) in the Applicant's response to the Office Action having a mailing date of June 21, 2004.

More importantly, the secondary reference that forms the basis of the 103(a) rejection is United States Patent No. 6,618,398 to Marchetti.

Section 103(c) provides that:

Subject matter developed by another person, which qualifies as prior art only under one or more of subsections (e), (f), and (g) of section 102 of this title, shall not preclude patentability under this section where the subject matter and the claimed invention were, at the time the invention was made, owned by the same person or subject to an obligation of assignment to the same person.

Title 35, United States Code, § 103(c). See also, MPEP § 2146.

The present application is owned by Nortel Networks Limited, as evidenced by documents recorded at Reel 011348, Frame 0695 (assignment from the inventors to Nortel Networks Limited).

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The cited reference, US 6,618,398, shows Nortel Networks Limited as the assignee. Therefore, the present application and the cited reference were, at the time the invention was made, owned by, or subject to an obligation of assignment to, the same person. Accordingly, the Marchetti reference is unavailable as prior art under section 103(a) and the Office Action fails to establish a prima facie case of obviousness.

Applicant previously presented this ground of traversal in its prior response (with respect to dependent Claims 5, 10 and 16).

Accordingly, Applicant respectfully requests withdrawal of the § 103(a) rejections of Claims 5, 10, 16, 46 and 47.

III. CONCLUSION

As a result of the foregoing, the Applicant asserts that the remaining Claims in the Application are in condition for allowance, and respectfully requests an early allowance of such Claims.

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If any issues arise, or if the Examiner has any suggestions for expediting allowance of this Application, the Applicant respectfully invites the Examiner to contact the undersigned at the telephone number indicated below or at rmccutcheon@davismunck.com.

The Commissioner is hereby authorized to charge any additional fees connected with this communication or credit any overpayment to Davis Munck Deposit Account No. 50-0208.

Respectfully submitted,

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Date: 9/13/2005



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